

## REMARKS

With the present Amendment, claims 20 and 28 through 39 are cancelled. The remaining claims have been variously amended to more particularly define and distinctly claim aspects of the invention and to overcome the § 112, second paragraph, rejections set forth in sections 2 and 3 of the Office Action.

As amended herein, independent claim 1 calls for a system for providing cross-marketing promotional offers to a customer, and has been amended to include a smart cart that defines a customer-storage area used by the customer to store products while shopping. Claim 1 further calls for the smart cart to further comprise an item evaluator configured to measure a physical parameter of the products placed in the customer storage area. This physical parameter is cross-referenced with the product information to verify that the actual product corresponds to the product referenced in the product information. Claim 1 as originally presented was rejected as anticipated by Sloane '211. It is respectfully submitted that claim 1 as amended and presented herein patentably distinguishes over Sloan '211 alone or in combination with any other reference of record, including Humble GB '000, as discussed below.

The method and apparatus according to Sloan '211 is focused primarily on the use of a portable bar code scanner used by a customer to scan products as they are shopping. The bar code scanner may be held by the customer, or attached to a shopping cart, and is used to retrieve a bar code provided on a product. The scanner operates in conjunction with a computer/controller 12, and the bar code may be used for, among other things, to provide the customer with an indication that a promotion is

provided for the product. The computer/controller also sends a product description and price information on the scanned product to the bar code scanner.

Sloan '211 is completely silent as to any configuration of the shopping cart, and does not describe or otherwise suggest of a smart cart that includes an item evaluator that measures a physical parameter of products placed in the cart, whereby the physical parameter is cross-referenced with product information to verify that the scanned product actually corresponds to the product referenced in the product information. Accordingly, claim 1 cannot be anticipated by Sloan '211.

The Humble GB '000 reference describes a check-out system that incorporates two different weighing scales 16, 20 used at the check-out location. The shopping cart is placed on the first "in cart" scale 16 and as an article is taken from the shopping cart, the system makes an immediate determination of the decrement in weight associated with the removal of the article. Upon scanning the article UPC code and obtaining a known weight from the computer 24, the system compares the decremented weight with the computer provided weight to determine any discrepancy between the compared weights. A second level comparison is done with the scale 20 on the "out cart" scale. As the individual removed articles are transferred after scanning to the second cart 22, a second comparison can be made between scale 16 and the scanned UPC weights.

The GB '000 reference does not teach or disclose of an item evaluator, such as a scale or other device, that is configured in the shopping cart. The scales in the GB '000 reference are provided at the check-out station, and are configured such that the cart is moved onto the scale. The carts do not include an item evaluator that is configured to measure a physical parameter of products placed into the storage area of the cart,

whereby the measured parameter can be immediately cross-referenced with product information to verify that the actual product corresponds to the product referenced in the product information, as called for in claim 1. Accordingly, even if the check-out system of the GB '000 reference were combined with Sloan '211, the resulting combination is still not in accordance with the system of claim 1.

Accordingly, applicant respectfully submits that independent claim 1 is allowable over Sloan '211 alone or in combination with the GB '000 reference.

Claims 2 through 10 only further patentably distinguish the system of claim 1 and are allowable over the cited references for at least the reasons claim 1 is allowable.

Independent claim 11 is drawn to the individual smart carts, and is amended herein to particularly define that a customer storage area is defined in the cart and is used by the customer to store products while shopping. The customer storage area includes an item evaluator. The smart cart computer is configured to use the item evaluator to measure a physical parameter of the products placed in the customer storage area and to compare the measured physical parameters with a known value to verify that the products placed into the cart correspond to the products identified in the product information. It is respectfully submitted that independent claim 11 patentably distinguishes over Sloan '211 alone or in combination with the GB '000 reference for essentially the reasons set forth above with respect to claim 1.

Claims 12 through 17 only further patentably distinguish the cart set forth in claim 11, and are allowable for at least the reasons claim 11 is allowable.

Independent claim 18 is drawn to a network enabled smart cart and is amended herein to further call for the first computer to be configured to establish a communication

connection to a third party computer so that a customer can directly communicate with a third party via the customer interface (subject matter of original claim 20). Claim 18 is also amended to make clear that the customer storage area is defined in the smart cart and includes a scale. In other words, the scale is a component of the cart.

Claim 20 was initially rejected over the combination of Sloan '211 and the GB '000 reference. In this rejection, the Examiner has apparently associated the store central computer disclosed in Sloan '211 as corresponding to the third party computer. However, the store central computer is not a third party computer that is remote from the shopping establishment. As described in the specification at, for example, page 19, a remote communication can be established, for example, using an IP address associated with a remote third-party computer, and a customer in the retail store using the smart cart can use the customer interface to establish this communication link with a third party computer that is monitored by a person outside of the retail store. The person outside of the store can directly communicate with the person inside the store via the customer interface for any reason, for example to add an item to the customer's shopping list, and so forth. This capability is completely lacking from the system of Sloan '211.

In addition, claim 18 calls for a scale in the customer storage area of the shopping cart. As discussed above with respect to claim 1, the GB '000 reference does not disclose that a scale is used in a shopping cart for any purpose.

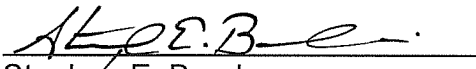
Accordingly, applicant respectfully submits that independent claim 18 defines over the combination of Sloan '211 and the GB '000 reference and is allowable. Claims

19 and 21 through 27 only further patentably define the network of claim 18, and are thus allowable for at least the reasons claim 18 is allowable.

With the present Amendment, applicant respectfully submits that all pending claims are allowable, and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Respectfully submitted,

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